

FILED

JUN 17 2020

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT  
FOR THE \_\_\_\_\_ DISTRICT OF TEXAS  
\_\_\_\_\_  
DIVISION

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY plt DEPUTY CLERK

Octavio Cazares Gutierrez Junior 97647 11/30/1985  
Plaintiff's Name and ID Number

Ector County Detention Center  
Place of Confinement

P. O. BOX 331 ODESSA TX 79761

CASE NO. MO: 20-CV-00151  
(Clerk will assign the number)

Secondary Address  
v. 12285. w. citation. Odessa Tx 79763

Ector County Sheriffs Department.  
Defendant's Name and Address

Ector County Detention Center. 2500 HWY 385  
ODESSA TX 79761  
Defendant's Name and Address

\_\_\_\_\_  
Defendant's Name and Address  
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

**FILING FEE AND IN FORMA PAUPERIS (IFP)**

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of \$400.00.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

**CHANGE OF ADDRESS**

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

**I. PREVIOUS LAWSUITS:**

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? \_\_\_ YES ☒ NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
  1. Approximate date of filing lawsuit: \_\_\_\_\_
  2. Parties to previous lawsuit:
   
Plaintiff(s) \_\_\_\_\_
   
Defendant(s) \_\_\_\_\_
  3. Court: (If federal, name the district; if state, name the county.) \_\_\_\_\_
  4. Cause number: \_\_\_\_\_
  5. Name of judge to whom case was assigned: \_\_\_\_\_
  6. Disposition: (Was the case dismissed, appealed, still pending?) \_\_\_\_\_
  7. Approximate date of disposition: \_\_\_\_\_

II. PLACE OF PRESENT CONFINEMENT: Ector County Detention Center # 4401

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure?

☒ YES ☐ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Octavio Cazares Gutierrez Junior  
12285 W. Citation Odessa TX. 79763

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Ector County Detention Center.  
2500 US HWY ODESSA TX 797681

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #2: \_\_\_\_\_

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #3: \_\_\_\_\_

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #4: \_\_\_\_\_

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: \_\_\_\_\_

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V.

## STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

*pages Attached.*

## VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

*462,280<sup>00</sup> For Pain Suffering, Punitive Damages, Reputation Damages, Confidentiality breach Damages, Financial, Physical & Emotional Distress & Damages, MCH. Bills Paid.*

## VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

*Octavio Guzares Gutierrez, Junior, Speedy, TAVI*

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

*97647 LEC, FED 50331180981867533*

## VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ☐ YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): \_\_\_\_\_

2. Case number: \_\_\_\_\_

3. Approximate date sanctions were imposed: \_\_\_\_\_

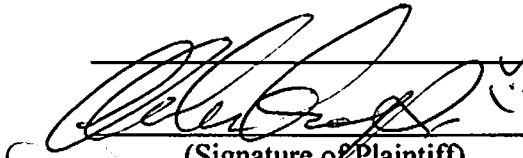
4. Have the sanctions been lifted or otherwise satisfied? ☐ YES ☐ NO

C. Has any court ever warned or notified you that sanctions could be imposed? \_\_\_\_\_ YES ☒ NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): \_\_\_\_\_
2. Case number: \_\_\_\_\_
3. Approximate date warning was issued: \_\_\_\_\_

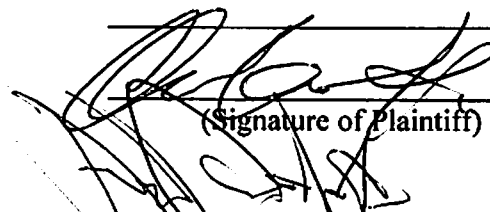
Executed on: \_\_\_\_\_  
DATE

  
(Signature of Plaintiff)

### PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 14 day of June, 20 20  
(Day) (month) (year)

  
(Signature of Plaintiff)

**WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.**



V.

## Statement of Claim...

page 1

On or about September 26 2019 I was Booked into the Ector County Detention Center on a failure to Appear for Assault on Public Servant. During my Booking I stated to the Bookkeeper that I was an ex gang member of the West Texas Tango Blast Gang and that I am not allowed to be around them, due to ex affiliation.

The Detention Center Block of 2000 is know for the placement of "The More Violent Gang Members" where all The Tangos are placed. I Stated to the Staff That I am not allowed back there by the gang inmates. Wich I understand that the gangs do not run the System, but also know that its Segregated controllably by the Staff to keep them in 2000 block.

When I stated to staff that I would and most likely will be assaulted if placed there they stated that it was not there problem and that I shouldn't be gang banging, I stated that I was refusing to house in the block of 2000, and was told I dint have a choice where I later Sat down on chair and refused to go. I was approached by Jailors that litterly physically apprehended me and carried me into 2000 Block and closed Door on me I was there 2 days when by lites out I was asleep wher suddenly I was assaulted while I slept by two

Page 2

inmates of the West Texas Tang Blast Gang, That ended up in removal of myself and placed in 4402 block after I was seen by Doctor. (I Request & with your permission your Honor Video Surveillance) and The Request of my statements, where I was placed was in the 4402 wich is the protective Custody tank. Due to me being transferred by Sheriff's Department from The County of LEA County Lovington NM, where I also was placed on protective Custody due to Same & past issues that have to do with my Federal Stint. So with That being Said, I am in know and Common Sense that by being tranferred they include my file in the tranfferring So when viewed by Ector County Detention Center They Should of known I was Supposed to be in a P.C. Tank due to My Ex affiliation Et. where I later was Released.

Upon my release I was placed on 5 years Deffered probation where I later revoked for Dirty UA.. The Reason behind my Drug Use and problem is Due to the P.C. problem that is Caused by Leak in the Sytem where I am being Harrassed in the Free World, also <sup>WAS</sup> Shot at where I was a victim of a Drive by wich I do recall my mother called the Cops where they later went by my Home

I was told by some friends that it was retaliation by ex gang members. The reason I don't relocate to another city or town is because I can't due to probation. I can not work due to mental PTSD caused by this situation where now I am placed on medication like Zyprexa 5mg for Mood & Voices, Trazadone for Depression & Insomnia & Cymbalta for Depression & Anxiety.

2. On or about the dates of November 16 2019 according to the account summary I was and is being charged 23064.04 for medical bills for this Second Incident that occurred on the month of November. Do not recall exact date but do ask for verification of incidents. Audio & Video surveillances proof also officers involved. Wich like first incident, I stated to the same Bookkeeper that I can not be placed in the 2000 block where she stated it's not her problem, where I all ready knew they knew the same outcome would be the outcome. So I was placed in the 2000 Block Area where once again I was assaulted by unknown West Texas Tango Blast Gang Members in the Recreation Center, where I seen the officer look in



and Saw what was happening and refused to call in the Code of assault, I had to physically remove myself and run Out of Rec Area, you can see the Video Surveillance, Simontaneously when I was being Assaulted The guard Looked in and turned around and Neglected me Help. Like Their Duty is to protect & Serve. wich he dint do. I was taken to the Hospital where I was Katscanned and released later placed in the Same protective Custody tank 4401 where I am Currently Writing this Statement.

Everything Could of been prevented if The Staff of the Detention Center would do the proper Job of placing inmate Segregatedly especially if They are known to be gang member or ex gang members. I was told the first time they Summit in the Computer that they put a keep away from active West Texas Tango Gang if That was The Case why wasnt The procedured followed The Second time. Neglect. So Now I am being Harrassed By Collecting agency on This Medical bills That Could of been prevented if Things would of been done the proper way I Understand being in a gang is wrong so I decided to remove myself from That

Situation And also understand that Theres repucations. but i Asked for Help & Looks more like they want me to get hurt and sent to prison were more easier to ge hurt. I Can Not recieve Commissary Money On My books due to what I Owe due to going to hospital for The assaults on me. heres The Ector Co Jail Resident Account Summary where it states 3 X That I am being Charged 9/26/19 5178.74 MCH 9/26/19 5178.74 on the 12/09/2019 then On 12/31/2019 again 5178.74 Then on 1/15/2020 5178.74 wich all state 9/26/19 does Not make Sense. Then 10 24 2019 was also Charged again 5178.74 I would like to Sue the Ector County Jail or Detention Center on These grounds

- Pain & Suffering
- punitive Damages
- Financial Distress
- Physical & Emotional Distress.
- Financial Harrassment.

Octavo Southern 97647

P.O. Box 331

Odessa Tx. 79761

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JUN 17 2020

Ms S (piece)

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY

DEPUTY



THIS ENVELOPE IS RECYCLABLE AND MADE WITH 30% POST CONSUMER CONTENT

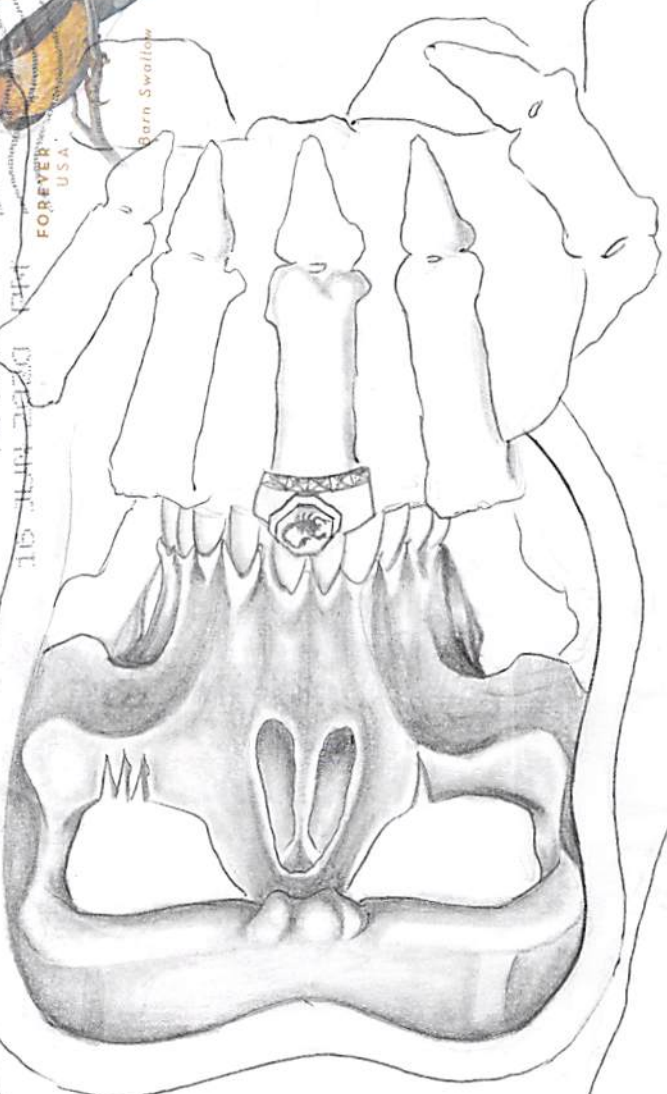


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U.S. Clerk  
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~~Odessa~~  
Midland Tx 79701

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JUN 17 2020

CLERK, U.S. DISTRICT CLERK  
WESTERN DISTRICT OF TEXAS

BY \_\_\_\_\_ DEPUTY